

REMARKS/ARGUMENTS

Status of Claims

Claims 1-3, 6-8, and 10-16 were pending in the present invention. These claims have been rejected under various rejections. As outlined above, Claims 1 and 6 have been amended; and newly presented Claim 17 has been added. Therefore, Claims 1-3, 6-8, and 10-17 are pending in this application.

The amended claims are fully supported in the specification as originally filed. In particular, the amendments to Claims 1 and 6 merely cancel a limitation to which the Office objected. Newly presented Claim 17 is supported in originally filed Claim 1 and in the specification at page 10, line 15, through page 11, line 21; and page 14, lines 1-6.

Rejections

Claims 1-3, 6-8, and 10-14 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Applicants respectfully traverse this rejection.

The Office indicates that the specification fails to provide support for the limitation that the macrofeatures have a maximum linear dimension of at least about 0.15mm. Applicants respectfully submit that the claim limitation is fully supported, but they have canceled this limitation in order to move the prosecution of this application forward.

Claims 1-3, 11, and 13-14 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Suda et al., US 5,078,710 ("Suda") in view of Langdon et al., US 5,500,270 ("Langdon"). Applicants respectfully traverse this rejection.

The present invention, as exemplified in independent Claim 1, relates to a two layer structure for use in absorbent articles. The structure includes a fluid permeable first apertured film layer and a fluid permeable second apertured film layer in fluid communication with said first layer. The second layer has a substantially planar first surface, a second surface, a caliper defined by a first plane and a second plane, and

a first plurality of disconnected macrofeatures having a maximum dimension of at least about 0.15 mm extending from said substantially planar first surface, said second layer further comprising a plurality of apertures defined by aperture sidewalls, originating in the first surface and extending generally in the direction of the second surface and terminating in the second plane, that are spaced apart from said first layer, wherein said first layer contacts said substantially planar surface of said second layer at selected areas located between said macrofeatures.

The present invention, as exemplified in independent Claim 17 relates to a two layer structure for use in absorbent articles. The structure includes a fluid permeable first apertured film layer; and a fluid permeable second apertured film layer in fluid communication with said first layer. The second layer includes a first surface directed toward said first layer and a second surface opposite the first surface. The first surface includes a plurality of disconnected macrofeatures separated by lower regions. The macrofeatures project away from said second surface, and portions of said macrofeatures projecting farthest from the second surface define a first plane. In addition, a plurality of apertures defined by aperture sidewalls, originate in the lower region of said first surface, extend generally in the direction of the second surface, and terminate in the second plane. The first layer contacts the second layer within the lower regions.

Suda purports to disclose a surface material for sanitary articles. Col. 6, line 44. The surface material has a film layer to contact the skin; and a fiber layer. Col. 6, lines 46-48 and FIGs 22-23. The film has wall sections that have slanting portions. Col. 3, lines 17-19 and FIG. 1. At least a part of the slanting portion is provided with an opening. Col. 3, lines 18-20 and FIG. 1.

Langdon purports to disclose a capillary laminate material comprising at least two sheets. Col. 2, lines 45-47. A capillary zone between the sheets is established by a spacer element. Col. 2, lines 47-48. The spacer elements can be formed from a material that is added to the sheets or from one of the sheets themselves. Col. 3 lines 42-44.

The Office indicates that Suda discloses a composite topsheet comprising a plurality of apertures, a plurality of discrete macrofeatures, wherein the macrofeatures comprise apertures in the sidewalls. The Office further argues that Suda teaches that the height of the surface material should be 0.1 to 5mm, encompassing the claimed height. The Office acknowledges that Suda fails to teach that both layers are film layers and references Langdon to supply this missing feature. It concludes that it would have been obvious to one of ordinary skill in the art to employ a film as a second layer in Suda rather than a nonwoven layer in Suda.

Applicants respectfully submit that the structure that the Office has described in reference to Suda is distinct from that in presently pending Claims 1 and 17 (and the remaining independent claims). First, the present claims require that apertures have sidewalls that terminate in a second plane, not that the sidewalls themselves have apertures! Second, there is no teaching or suggesting in Suda that the features the Office characterizes as macrofeatures are visibly distinct from the rest of the layer. Finally, there is no teaching or suggesting in Langdon to supply these missing elements.

In addition, there is no teaching or suggestion in Suda to provide the two-layer structure as defined in Claim 17. Again, Langdon fails to teach or suggest the claimed structure.

For the foregoing reasons, Applicants respectfully submit that Claims 1-3, 11, 13-14, and newly presented Claim 17 are allowable over the combination of Suda and Langdon. Reconsideration of this rejection is earnestly solicited.

Claims 6-8, 12, 15, and 16 stand rejected under 35 U.S.C. 102(b) as being anticipated by Suda. Applicants respectfully traverse this rejection.

The present invention, as exemplified in independent Claim 6, relates to a two layer structure overlying an absorbent layer, said two layer structure includes a fluid permeable first layer and a fluid permeable second layer in fluid communication with said first layer. The second layer has a substantially planar surface and a first plurality of disconnected macrofeatures having a maximum dimension of at least about 0.15mm extending from said planar surface. The second layer further

includes a plurality of apertures defined by aperture sidewalls that are spaced from said first layer. The first layer contacts said second layer at each of said macrofeatures and the first layer contacts the substantially planar surface of said second layer at selected areas located between said macrofeatures.

Again, the Office indicates that Suda discloses a composite topsheet for use with an absorbent core comprising a plurality of apertures, a plurality of discrete macrofeatures that further comprise apertures in the sidewalls. The Office argues that the tops of the Suda "macrofeatures" are substantially planar and that a layer of nonwoven can be deposited on the surface of the first layer so that the body side layer would be a nonwoven fabric.

As indicated above, Applicants respectfully submit that the structure that the Office has described in reference to Suda is distinct from that in presently pending Claims 6 and 17 (and the remaining independent claims). First, the present claims require that apertures have sidewalls that terminate in a second plane, not that the sidewalls themselves have apertures! Second, there is no teaching or suggesting in Suda that the features the Office characterizes as macrofeatures are visibly distinct from the rest of the layer.

In order to anticipate a claim, all claim elements must be present in the cited reference. Applicants respectfully submit that the claimed elements are not present in Suda as described in the Office Action. Withdrawal of this rejection is earnestly solicited.

Claim 10 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Suda in view of Langdon. Applicants respectfully traverse this rejection.

The invention of Claim 10 depends from Claim 6, discussed above. It adds the limitation that the first layer is a nonwoven fabric.

As above, the Office argues that Suda teaches all of the elements of Claim 6. The Office acknowledges that Suda fails to teach that the first layer is a nonwoven fabric. Therefore, it relies on Langdon to supply the missing teaching.

As Applicants have indicated above, Suda fails to teach or suggest the invention of Claim 6. Langdon fails to add sufficient teaching to overcome this

failure. Therefore, Applicants respectfully submit that the rejection of Claim 10 in view of Suda and Langdon is improper and should be withdrawn. Reconsideration of this rejection is earnestly solicited.

The Examiner has provisionally rejected claims 1-3, 6-8, and 10-16 of the instant application in light of claims 1, 3-4, 10, 11, 14-16, 18, 19, 22-27, and 29-31 of co-pending patent application 10/366,051. While the Applicants do not necessarily agree with the Examiner's rejections in any regard, nevertheless, because such provisional rejections are the only rejections remaining in view of the above-mentioned amendment and remarks herein, applicants submit such rejections should be withdrawn pursuant to MPEP 804(I)(B), and the instant claims allowed. Should any of the above application issue into a patent prior to allowance of the instant application, the Examiner is requested to contact the undersigned to allow applicants to consider filing a Terminal Disclaimer, or otherwise overcome any resulting non-provisional double patenting rejection.

Applicants believe that the foregoing presents a full and complete response to the outstanding Office Action. Applicants look forward to an early notice of allowance for this application.

Respectfully submitted,

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